

MONTANA LEGISLATIVE HISTORY

Chapter 249 19 53

Bill H 599 S _____

Original bill & history ☒ C

H. Committee on Business & Economic Development

Hearing Date(s) Feb 16 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 16 ☒ C

S. Committee on Business & Industry

Hearing Date(s) Mar 11 ☒ C

Mar 12 ☒ C

_____ ☐ C

_____ ☐ C

Mar 12 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

4/07 SIGNED BY PRESIDENT
 4/08 TRANSMITTED TO GOVERNOR
 4/13 SIGNED BY GOVERNOR
 CHAPTER NUMBER 334
 EFFECTIVE DATE: 10/01/93

HB 576 INTRODUCED BY ENDY, ET AL.

CONSTITUTIONAL AMENDMENT TO EXTEND RIGHT TO BEAR ARMS TO
 LAWFUL HUNTING AND RECREATION USE

2/10	INTRODUCED		
2/10	REFERRED TO FISH & GAME		
2/10	FIRST READING		
2/13	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED		
2/19	2ND READING PASSED	72	20
2/22	3RD READING PASSED	84	15
	TRANSMITTED TO SENATE		
3/01	FIRST READING		
3/01	REFERRED TO FISH & GAME		
3/18	HEARING		
3/19	REFERRED TO JUDICIARY		
3/25	HEARING		
3/29	TABLED IN COMMITTEE		
4/16	MOTION FAILED TO TAKE FROM COMMITTEE AND PLACE ON 2ND READING	20	29

HB 577 INTRODUCED BY D. BROWN

GENERALLY REVISE AND CLARIFY CORPORATION LAWS
 BY REQUEST OF SECRETARY OF STATE

2/10	INTRODUCED		
2/10	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/10	FIRST READING		
2/16	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED	100	0
2/19	3RD READING PASSED	96	0
	TRANSMITTED TO SENATE		
2/22	FIRST READING		
2/22	REFERRED TO BUSINESS & INDUSTRY		
3/11	HEARING		
3/13	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED	50	0
3/17	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/21	SIGNED BY SPEAKER		
3/24	SIGNED BY PRESIDENT		
3/29	TRANSMITTED TO GOVERNOR		
3/31	SIGNED BY GOVERNOR CHAPTER NUMBER 249 EFFECTIVE DATE: 10/01/93		

HB 578 INTRODUCED BY SQUIRES, ET AL.

DEFINE REPETITIVE MOTION INJURY AS INJURY UNDER WORKERS'
 COMPENSATION ACT

2/10	INTRODUCED
2/10	REFERRED TO LABOR & EMPLOYMENT RELATIONS
2/10	FIRST READING

HOUSE BILL 577

Introduced by D. Brown

2/10	Introduced
2/10	Referred to Business & Economic Development
2/10	First Reading
2/16	Hearing
2/16	Committee Report--Bill Passed as Amended
2/17	2nd Reading Passed
2/19	3rd Reading Passed
	Transmitted to Senate
2/22	First Reading
2/22	Referred to Business & Industry
3/11	Hearing
3/13	Committee Report--Bill Concurred
3/16	2nd Reading Concurred
3/17	3rd Reading Concurred
	Returned to House
3/21	Signed by Speaker
3/24	Signed by President
3/29	Transmitted to Governor
3/31	Signed by Governor
	Chapter Number 249
	Effective Date: 10/01/93

1 Howe BILL NO. 577
2 INTRODUCED BY Quee Bar
3 BY REQUEST OF THE SECRETARY OF STATE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND
6 CLARIFYING THE LAWS CONCERNING CORPORATIONS; PROVIDING FOR
7 MAILING OF CERTAIN NOTICES; AUTHORIZING DIFFERENT NAME
8 DESIGNATIONS FOR FOREIGN CORPORATIONS; PROVIDING FOR THE
9 EXTENSION OF DURATION OF A CORPORATION; AND AMENDING
10 SECTIONS 35-1-115, 35-1-827, 35-1-937, 35-1-1039, 35-1-1104,
11 35-2-608, 35-2-833, AND 35-4-206, MCA."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 35-1-115, MCA, is amended to read:

15 "35-1-115. General powers. Unless its articles of
16 incorporation provide otherwise, each corporation has
17 perpetual duration and succession in its corporate name and,
18 unless otherwise prohibited by law, has the same powers as
19 an individual to do all things necessary or convenient to
20 carry out its business and affairs, including without
21 limitation, the power:

22 (1) to sue and be sued, complain, and defend in its
23 corporate name;

24 (2) to have a corporate seal, which may be altered at
25 will, and to use it or a facsimile of the seal by impressing

1 or affixing it or in any other manner reproducing it;

2 (3) to make and amend bylaws, consistent with its
3 articles of incorporation or with the laws of this state,
4 for managing the business and regulating the affairs of the
5 corporation;

6 (4) to purchase, receive, lease, or otherwise acquire
7 and to own, hold, improve, use, and otherwise deal with real
8 or personal property or any legal or equitable interest in
9 property, wherever located;

10 (5) to sell, convey, mortgage, pledge, lease, exchange,
11 and otherwise dispose of all or any part of its property;

12 (6) to purchase, receive, subscribe for, or otherwise
13 acquire any other entity; to own, hold, vote, use, sell,
14 mortgage, lend, pledge, or otherwise dispose of any other
15 entity; and to deal in and with shares or other interests
16 in, or obligations of any other entity;

17 (7) to make contracts and guarantees; to incur
18 liabilities; to borrow money; to issue its notes, bonds, and
19 other obligations, which, if authorized by the articles of
20 incorporation, may be convertible into or include the option
21 to purchase other securities of the corporation; and to
22 secure any of its obligations by mortgage or pledge of any
23 of its property, franchises, or income;

24 (8) to lend money, invest and reinvest its funds, and
25 receive and hold real and personal property as security for

1 repayment;

2 (9) to be a promoter, partner, member, associate, or
3 manager of any partnership, joint venture, trust, or other
4 entity;

5 (10) to conduct its business, locate offices, and
6 exercise the powers granted by this chapter in the state or
7 out of the state;

8 (11) to elect directors and appoint officers, employees,
9 and agents of the corporation; to define their duties; to
10 fix their compensation; and to lend them money and credit;

11 (12) to pay pensions and establish pension plans,
12 pension trusts, profit-sharing plans, share bonus plans,
13 share option plans, and benefit or incentive plans for any
14 or all of its current or former directors, officers,
15 employees, and agents;

16 (13) to make donations for the public welfare or for
17 charitable, religious, scientific, or educational purposes
18 and, in time of war, to make donations in aid of war
19 activities;

20 (14) to transact any lawful business that will aid
21 governmental policy; and

22 (15) to make payments or donations or to do any other
23 act that is consistent with law and that furthers the
24 business and affairs of the corporation."

25 **Section 2.** Section 35-1-827, MCA, is amended to read:

1 "35-1-827. Right to dissent. (1) A shareholder is
2 entitled to dissent from and obtain payment of the fair
3 value of his the shareholder's shares in the event of any of
4 the following corporate actions:

5 (a) consummation of a plan of merger to which the
6 corporation is a party if:

7 (i) shareholder approval is required for the merger by
8 35-1-815 or the articles of incorporation and the
9 shareholder is entitled to vote on the merger; or

10 (ii) the corporation is a subsidiary that is merged with
11 its parent corporation under 35-1-818;

12 (b) consummation of a plan of share exchange to which
13 the corporation is a party as the corporation whose shares
14 will be acquired if the shareholder is entitled to vote on
15 the plan;

16 (c) consummation of a sale or exchange of all or
17 substantially all of the property of the corporation other
18 than in the usual and regular course of business if the
19 shareholder is entitled to vote on the sale or exchange,
20 including a sale in dissolution but not including a sale
21 pursuant to court order or a sale for cash pursuant to a
22 plan by which all or substantially all of the net proceeds
23 of the sale will be distributed to the shareholders within 1
24 year after the date of sale;

25 (d) an amendment of the articles of incorporation that

1 materially and adversely affects rights in respect of a
2 dissenter's shares because it:

3 (i) alters or abolishes a preferential right of the
4 shares;

5 (ii) creates, alters, or abolishes a right in respect of
6 redemption, including a provision with respect to a sinking
7 fund for the redemption or repurchase of the shares;

8 (iii) alters or abolishes a preemptive right of the
9 holder of the shares to acquire shares or other securities;

10 (iv) excludes or limits the right of the shares to be
11 voted on any matter or to accumulate cumulate votes, other
12 than a limitation by dilution through issuance of shares or
13 other securities with similar voting rights; or

14 (v) reduces the number of shares owned by the
15 shareholder to a fraction of a share if the fractional share
16 so created is to be acquired for cash under 35-1-621; or

17 (e) any corporate action taken pursuant to a
18 shareholder vote to the extent the articles of
19 incorporation, bylaws, or a resolution of the board of
20 directors provides that voting or nonvoting shareholders are
21 entitled to dissent and to obtain payment for their shares.

22 (2) A shareholder entitled to dissent and to obtain
23 payment for his shares under 35-1-826 through 35-1-839 may
24 not challenge the corporate action creating the
25 shareholder's entitlement unless the action is unlawful or

1 fraudulent with respect to the shareholder or the
2 corporation."

3 **Section 3.** Section 35-1-937, MCA, is amended to read:

4 "35-1-937. Unknown claims against dissolved
5 corporation. (1) Subject to 35-1-939 35-1-936, the
6 dissolution of a corporation, including by the expiration of
7 its term, does not take away or impair any remedy available
8 to or against the corporation or its officers, directors, or
9 shareholders for any claim or right, whether or not the
10 claim or right existed or accrued prior to dissolution. A
11 proceeding by or against the corporation may be prosecuted
12 or defended by the corporation in its corporate name. The
13 shareholders, directors, and officers have power to take
14 corporate or other action as appropriate to protect the
15 remedy, right, or claim.

16 (2) A claim may be enforced under 35-1-936 or this
17 section:

18 (a) against the dissolved corporation, to the extent of
19 the undistributed assets; or

20 (b) if the assets have been distributed in liquidation,
21 against a shareholder of the dissolved corporation to the
22 extent of his the shareholder's pro rata share of the claim
23 or the corporate assets distributed to the shareholder in
24 liquidation, whichever is less, but a shareholder's total
25 liability for all claims under this section may not exceed

1 the total amount of assets distributed to him the
2 shareholder.

3 (3) Subsections (1) and (2) apply to foreign
4 corporations and their shareholders transacting business in
5 this state for any claims otherwise arising or accruing
6 under Montana law."

7 **Section 4.** Section 35-1-1039, MCA, is amended to read:

8 "35-1-1039. Procedure for and effect of revocation. (1)
9 If the secretary of state determines that one or more
10 grounds exist under 35-1-1038 for revocation of a
11 certificate of authority, the secretary of state shall serve
12 mail to the foreign corporation with the written notice of
13 his the determination pursuant-to-35-1-1034.

14 (2) If the foreign corporation does not correct each
15 ground for revocation or demonstrate to the reasonable
16 satisfaction of the secretary of state that each ground
17 determined by the secretary of state does not exist within
18 60 days after service of the notice is perfected under
19 35-1-1034, the secretary of state may revoke the foreign
20 corporation's certificate of authority by signing a
21 certificate of revocation that states the ground or grounds
22 for revocation and the effective date of the revocation. The
23 secretary of state shall file the original of the
24 certificate and serve a copy on the foreign corporation
25 pursuant to 35-1-1034.

1 (3) The authority of a foreign corporation to transact
2 business in this state ceases on the date shown on the
3 certificate revoking its certificate of authority.

4 (4) The secretary of state's revocation of a foreign
5 corporation's certificate of authority appoints the
6 secretary of state as the foreign corporation's agent for
7 service of process in any proceeding based on a cause of
8 action that arose during the time the foreign corporation
9 was authorized to transact business in this state. Service
10 of process on the secretary of state under this subsection
11 is service on the foreign corporation. Upon receipt of
12 process, the secretary of state shall mail a copy of the
13 process to the secretary of the foreign corporation at its
14 principal office shown in its most recent annual report or
15 in any subsequent communication received from the
16 corporation stating the current mailing address of its
17 principal officer or, if no a report or communication is not
18 on file, in its application for a certificate of authority.

19 (5) Revocation of a foreign corporation's certificate
20 of authority does not terminate the authority of the
21 registered agent of the corporation."

22 **Section 5.** Section 35-1-1104, MCA, is amended to read:

23 "35-1-1104. Annual report for secretary of state. (1)
24 Each domestic corporation and each foreign corporation
25 authorized to transact business in this state shall deliver

1 to the secretary of state, for filing, an annual report that
2 sets forth:

3 (a) the name of the corporation and the state or
4 country under whose law it is incorporated;

5 (b) the mailing address and, if different, street
6 address of its registered office and the name of its
7 registered agent at that office in this state;

8 (c) the address of its principal office;

9 (d) the names and business addresses of its directors
10 and principal officers;

11 (e) a brief description of the nature of its business;

12 (f) the total number of authorized shares, itemized by
13 class and series, if any, within each class; and

14 (g) the total number of issued and outstanding shares,
15 itemized by class and series, if any, within each class.

16 (2) Each foreign corporation shall also include a
17 statement, expressed in dollars, of the value of all the
18 property owned by the corporation, wherever located, and the
19 value of the property of the corporation located within
20 Montana and a statement, expressed in dollars, of the gross
21 amount of business transacted by the corporation for the
22 year ending December 31 preceding the date provided in this
23 section for the filing of the report and the gross amount of
24 business transacted by the corporation at or from places of
25 business in Montana. If on December 31 preceding the time

1 provided in this section for the filing of the report the
2 corporation had not been authorized to transact business in
3 Montana for 1 year, the statement with respect to business
4 transacted must be furnished for the period between the date
5 of its authorization to transact business in Montana and
6 December 31. If all the property of the corporation is
7 located in Montana and all of its business is transacted at
8 or from places of business in Montana, the information
9 required by this subsection need not be reported.

10 (3) Information in the annual report must be current as
11 of the date the annual report is executed on behalf of the
12 corporation.

13 (4) The first annual report must be delivered to the
14 secretary of state between January 1 and April 15 of the
15 year following the calendar year in which a domestic
16 corporation was incorporated or a foreign corporation was
17 authorized to transact business. Subsequent annual reports
18 must be delivered to the secretary of state between January
19 1 and April 15.

20 (5) If an annual report does not contain the
21 information required by this section, the secretary of state
22 shall promptly notify the reporting domestic or foreign
23 corporation in writing and return the report to it for
24 correction. ~~if--the--report--is--corrected--to--contain--the~~
25 ~~information--required--by--this--section--and--delivered--to--the~~

1 ~~secretary-of-state-within-30-days-after-the--effective--date~~
2 ~~of-notice,-it-is-considered-to-be-timely-filed:-"~~

3 **Section 6.** Section 35-2-608, MCA, is amended to read:

4 "35-2-608. Approval of plan of merger. (1) Subject to
5 the limitations set forth in 35-2-609, profit one or more
6 nonprofit corporations may merge into a business or
7 nonprofit corporation if the plan of merger is approved as
8 provided in 35-2-610.

9 (2) The plan of merger must set forth:

10 (a) the name of each corporation planning to merge and
11 the name of the surviving corporation into which each plans
12 to merge;

13 (b) the terms and conditions of the planned merger;

14 (c) the manner and basis, if any, of converting the
15 memberships of each public benefit or religious corporation
16 into memberships of the surviving corporation; and

17 (d) if the merger involves a mutual benefit
18 corporation, the manner and basis, if any, of converting
19 memberships of each merging corporation into memberships,
20 obligations, or securities of the surviving or any other
21 corporation or into cash or other property in whole or part.

22 (3) The plan of merger may set forth:

23 (a) any amendments to the articles of incorporation or
24 bylaws of the surviving corporation to be effected by the
25 planned merger; and

1 (b) other provisions relating to the planned merger."

2 **Section 7.** Section 35-2-833, MCA, is amended to read:

3 "35-2-833. Procedure for and effect of revocation. (1)
4 The secretary of state, upon determining that one or more
5 grounds exist under 35-2-832 for revocation of a certificate
6 of authority, shall serve mail to the foreign corporation
7 with written notice of that determination under 35-2-830.

8 (2) The attorney general, upon determining that one or
9 more grounds exist under 35-2-832(2) for revocation of a
10 certificate of authority, shall request the secretary of
11 state to serve, and the secretary of state shall serve, the
12 foreign corporation with written notice of that
13 determination under 35-2-830.

14 (3) If the foreign corporation does not correct each
15 ground for revocation or demonstrate to the reasonable
16 satisfaction of the secretary of state or attorney general
17 that each ground for revocation determined by the secretary
18 of state or attorney general does not exist within 60 days
19 after mailing the notice or after service of the notice is
20 perfected under 35-2-830, the secretary of state may revoke
21 the foreign corporation's certificate of authority by
22 signing a certificate of revocation that states the ground
23 or grounds for revocation and the effective date of the
24 revocation. The secretary of state shall file the original
25 of the certificate and serve a copy on the foreign

corporation under 35-2-830.

(4) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(5) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation."

Section 8. Section 35-4-206, MCA, is amended to read:

"35-4-206. Corporate name. The name of a domestic or foreign professional corporation:

(1) must contain the words "professional corporation" or the abbreviation "P.C.", and the name of a foreign corporation may contain the words "professional services" or "P.S.";

(2) may not contain any word or phrase that indicates or implies that the corporation is organized for any purpose other than the purposes contained in its articles of incorporation;

(3) may not be the same as or deceptively similar to any assumed business name, limited partnership name, trademark, or service mark registered or reserved with the secretary of state or to the name of any domestic corporation existing under the laws of this state, any foreign corporation authorized to transact business in this state, a name the exclusive right to which is reserved in

the manner provided in the Montana Business Corporation Act, or the name of a corporation that has in effect a registration of its corporate name as provided in the Montana Business Corporation Act. This subsection does not apply if:

(a) the similarity results from the use in the corporate name of personal names of shareholders or former shareholders or of natural persons who were associated with a predecessor entity; or

(b) the corporation files with the secretary of state either the written consent of such other corporation or holder of a reserved or registered name to use the same or a deceptively similar name and one or more words are added to make such name distinguishable from such other name or a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the corporation to the use of the name in this state; and

(4) must conform to rules promulgated by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of the corporation."

NEW SECTION. Section 9. Extension of duration of corporation. If a corporation is dissolved by the expiration of its period of duration as stated in its articles of incorporation, the corporation may amend its articles of

LC 0833/01

1 incorporation within 5 years from the stated date of
2 expiration to extend its existence.

3 NEW SECTION. **Section 10.** Codification instruction.
4 [Section 9] is intended to be codified as an integral part
5 of Title 35, chapter 1, and the provisions of Title 35,
6 chapter 1, apply to [section 9].

-End-

COMMITTEE--HOUSE BUSINESS & ECONOMIC DEVELOPMENT

Page 7

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0556	DAILY, FRITZ	REGULATE CABLE TELEVISION						
	2/10	2/15		TABLED ON	02/15	VOTE: 10-8		
HB0575	DEBRUYCKER, ROGER	REVISE FARM MUTUAL INSURANCE LAWS						
	2/10	2/16		DO PASS	2/16	VOTE: 18-0		2/16
HB0577	BROWN, DAVE	REVISE AND CLARIFY CORPORATION LAWS						
	2/10	2/16		PASS AS AMENDED	2/16	VOTE: 18-0		2/16
HB0585	COCCHIARELLA, VICKI	RADON CONTROL ACT						
	2/10	2/17		PASS AS AMENDED	2/18	VOTE: 18-0	APPROPRIATIONS	2/19
HB0593	SCHYE, TED	SEASONAL BEER AND WINE LICENSE FOR YELLOWSTONE AIRPORT						
	2/11	2/17		DO PASS	2/17	VOTE: 18-0		2/17
HB0594	LARSON, DON	CLARIFY BEER AND WINE LICENSE TRANSFER OBLIGATIONS FOR CREDIT PURCHASES						
	2/11	2/17		DO PASS	2/17	VOTE: 17-1		2/17
HB0596	WISEMAN, WILLIAM	RECIPROCITY FOR TRUST COMPANIES						
	2/11	2/17		PASS AS AMENDED	2/18	VOTE: 12-6		2/19
HB0600	TUSS, CARLEY	REVISE EXTENDED HEALTH-CARE INSURANCE TO INCLUDE PARTIAL HOSPITALIZATION						
	2/12	2/17		TABLED ON	02/17	VOTE: 12-6		
HB0611	WISEMAN, WILLIAM	REVISE LANDLORD-TENANT LAW						
	2/13	2/17		TABLED ON	02/17	VOTE: 18-0		
HB0612	DOLEZAL, ED	REGULATE TELEPHONE SOLICITATION SALES						
	2/13	2/17		TABLED ON	02/17	VOTE: 10-8		
HB0635	FAGG, RUSSELL	ALLOW SEC. OF STATE TO REMOVE IMPROPER OR FRAUDULENT LIEN FILINGS						
	2/16	2/18		DO PASS	2/18	VOTE: 18-0		2/19
HB0637	RYAN, WILLIAM	MINIMUM POLICY LANGUAGE STANDARDS FOR PROPERTY/CASUALTY INSURANCE POLICIES						
	2/17	2/19		PASS AS AMENDED	2/19	VOTE: 15-3		2/19

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By CHAIRMAN BENEDICT, on February 16, 1993, at
7:15 A.M.

ROLL CALL

Members Present:

Rep. Steve Benedict, Chairman (R)
Rep. Sonny Hanson, Vice Chairman (R)
Rep. Bob Bachini (D)
Rep. Joe Barnett (R)
Rep. Ray Brandewie (R)
Rep. Vicki Cocchiarella (D)
Rep. Fritz Daily (D)
Rep. Tim Dowell (D)
Rep. Alvin Ellis (R)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Dick Knox (R)
Rep. Don Larson (D)
Rep. Norm Mills (R)
Rep. Bob Pavlovich (D)
Rep. Bruce Simon (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 543, HB 545, HB 577 AND HB 575
Executive Action: HB 543, HB 545, HB 575, HB 577, and
HB 155

HEARING ON HB 543

Opening Statement by Sponsor:

REP. DAVE EWER, House District 45, Helena, said HB 543 will
enable trust companies to invest in open or closed management

trust companies are subsidiaries of banks and have to demonstrate and maintain high standards of integrity.

Closing by Sponsor:

REP. EWER closed.

HEARING ON HB 577

Opening Statement by Sponsor:

REP. DAVE BROWN, House District 72, Butte, said HB 577 is at the request of the secretary of state. He said last session there were two bar association bills passed and were set up to place them on the legislation for-profit corporation and for-non-profit corporations. This bill takes care of technical corrections or administrative adjustments to those two acts. He distributed amendments and walked the committee through the bill showing what the amendments do. EXHIBIT 1

Proponents' Testimony:

Garth Jacobson, representing the Office of the Secretary of State, said HB 577 is a technical corrections bill. It provides the necessary clean up language for the corporate acts passed last session. He distributed written testimony. EXHIBIT 2

Opponents' Testimony:

None

Questions From Committee Members and Responses:

CHAIRMAN BENEDICT asked Garth Jacobson why they are striking the language on page 10, subsection (5)? Mr. Jacobson said they mail out approximately 30,000 annual reports. It takes awhile for this mail to be processed and the deadline is April 15. He said there are very few rejections. CHAIRMAN BENEDICT asked if there was no more grace period. Mr. Jacobson said the filing fee is \$10 if filed on time, and up to \$20 if it is after the April 15 deadline, and \$30 if the September 15 deadline is missed. CHAIRMAN BENEDICT asked Mr. Jacobson if he would mind if the committee placed that stricken language back into the bill? Mr. Jacobson said it is an unworkable situation, but would do whatever the committee decided to do.

Closing by Sponsor:

REP. BROWN closed stating if the language on page 11 in regard to the 30 day time limit was stricken and "reasonable time" inserted, it would avoid the penalty, and would help the secretary of state's office so they do not have to keep track of every date.

EXECUTIVE ACTION ON HB 575

Motion: REP. BRANDEWIE MOVED HB 575 DO PASS.

Discussion: None

Motion/Vote: The question was called. Voice vote was taken.
Motion carried unanimously.

Vote: HB 575 DO PASS. Motion carried 18 - 0.

EXECUTIVE ACTION ON HB 577

Motion: REP. ELLIS MOVED HB 577 DO PASS.

Discussion: REP. BRANDEWIE proposed an amendment to strike section 5, subsection (5), and made the motion to adopt the amendment.

EXHIBIT 5

REP. PAVLOVICH said he agrees with REP. BROWN to eliminate the 30 day time period and insert "a reasonable time frame".

REP. DAILY moved to strike section 5. Voice vote was taken.
Motion carried 11 - 7 with REPS. COCCHIARELLA, DOWELL, TUSS, STELLA JEAN HANSEN, BACHINI, ELLIS, AND MILLS voting no.

REP. SIMON proposed an amendment on page 13, section 8, to clarify that foreign corporations would not have to call themselves professional corporations. REP. TUSS called the question. Voice vote was taken. Motion carried unanimously.

REP. BRANDEWIE moved to adopt the auditor's amendment on page 4, lines 7, 24, and 25, and page 12, line 25, and page 13, line 1. Paul Verdon said it changes the language for serving and mailing. REP. BRANDEWIE called the question. Voice vote was taken. Motion carried unanimously.

Motion/Vote: REP. ELLIS MOVED HB 577 DO PASS AS AMENDED. REP. DAILY called the question. Voice vote was taken. Motion carried unanimously.

Vote: HB 577 DO PASS AS AMENDED. Motion carried 18 - 0.

HEARING ON HB 545

Opening Statement by Sponsor:

REP. CARLEY TUSS, House District 35, Black Eagle, said HB 545 is at the request of the state auditor's office. It is a comprehensive document that will revise the state insurance laws.

HOUSE OF REPRESENTATIVES
53RD LEGISLATURE - 1993
BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

ROLL CALL

DATE 2-16-93

NAME	PRESENT	ABSENT	EXCUSED
REP. ALVIN ELLIS	✓		
REP. DICK KNOX	✓		
REP. NORM MILLS	✓		
REP. JOE BARNETT	✓		
REP. RAY BRANDEWIE	✓		
REP. JACK HERRON	✓		
REP. TIM DOWELL	✓		
REP. CARLEY TUSS	✓		
REP. STELLA JEAN HANSEN	✓		
REP. BOB PAVLOVICH	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRITZ DAILY	✓		
REP. BOB BACHINI	✓		
REP. DON LARSON	✓		
REP. BRUCE SIMON	✓		
REP. DOUG WAGNER	✓		
REP. SONNY HANSON, VICE CHAIRMAN	✓		
REP. STEVE BENEDICT, CHAIRMAN	✓		

HR:1993

wp.rollcall.man

HOUSE STANDING COMMITTEE REPORT

February 16, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 577 (first reading copy -- white) do pass as amended .

Signed: Steve Benedict
Steve Benedict, Chair

And, that such amendments read:

1. Title, line 10.
Strike: "35-1-1104,"
2. Page 7, line 18.
Strike: "service of"
3. Page 7, lines 18 and 19.
Strike: "perfected under 35-1-1034"
Insert: "mailed"
4. Page 7, line 24.
Strike: "serve"
Insert: "mail"
Strike: "on"
Insert: "to"
5. Page 7, line 25.
Strike: "pursuant to 35-1-1034"
6. Page 8, line 22 through page 11, line 2.
Strike: section 5 in its entirety
Renumber: subsequent sections
7. Page 12, line 25.
Strike: "serve"
Insert: "mail"
Strike: "on"
Insert: "to"
3. Page 13, line 1.
Strike: "under 35-2-830"

16

February 16, 1993

Page 2 of 2

9. Page 13, line 11.

Following: "(1)"

Insert: "except as provided in subsection (1)(b),"

Following: "must"

Insert: ":

(a)"

10. Page 13, line 12.

Following: "'P.C.'"

Strike: ", and"

Insert: "; unless

(b)"

11. Page 13, line 13.

Strike: "may contain"

Insert: "contains"

12. Page 15, lines 4 and 6.

Strike: "9"

Insert: "8"

-END-

17

Amendments to HB 577

Amend: Section 4., Page 7, line 18, and 18.

Following: "after"

Strike: "service of"

Following: "is"

Strike: "perfected under 35-1-1034,"

Insert: "mailed,"

Amend: Section 4., Page 7, line 24 and 25.

Following: "and"

Strike: "serve"

Insert: "mail"

Following: "corporation"

Strike: "pursuant to 35-1-1034"

Amend: Section 7., Page 12, line 25 and Page 12, line 1

Following: "and"

Strike: "serve"

Insert: "mail"

Following: "corporation"

Strike: "under 35-2-830"

Testimony in Support of HB 577

Before the House Business and Industry Committee

Presented by Garth Jacobson

Representing the Office of the Secretary of State

February 16, 1993

Mr. Chairman and members of the House Business and Economic Development Committee, for the record I am Garth Jacobson representing the Office of the Secretary of State. I am here testifying in support of HB 577.

HB 577 is a technical correction bill. It provides necessary clean up language for the corporate acts passed last session. As a member of the State Bar of Montana Corporate Law Revision Committee I know there were hundreds of hours put into the drafting of the model profit and nonprofit business acts. However, despite the extensive work there were a few glitches discovered during the past 2 years. Therefore, HB 577 is the corporate law equivalent to the code commissioner bill. In a couple of sections it also deals with some matters that are necessary to deal with unworkable administrative procedures.

The following is a section by section analysis of HB 577,

SECTION 1. This minor wording change is necessary to make this subsection consistent with 35-1-618(5). There is no policy impact.

SECTION 2. The change of the word accumulate to cumulate is consistent with the American Bar Association Model Business Corporation Act and consistent with 35-1-531(2)(b) and (c) MCA. This change will eliminate ambiguity.

SECTION 3. This corrects a incorrect cross reference which involved a "6" being transposed into a "9".

SECTION 4. The change adjusts the act to an affordable method for revocations of certificates of authority for foreign corporations. Without this change the office could incur major service of process expenses. This brings the process back to the old method.

SECTION 5. This change is necessary to save money by not maintaining a tickler system of rejected annual reports being resubmitted. The present statutory scheme is great on paper but administratively difficult to implement.

SECTION 6. These were words that were accidentally omitted from the original act. This language makes the section understandable.

SECTION 7. These changes are the same as for profit foreign corporations as identified in section 4. This brings the nonprofit corporate act in line with the profit corporation act.

19

SECTION 8. This change permits foreign professional corporations to use the disclaimer name permitted in their jurisdiction of origin.

SECTION 9. This language puts back in a provision the old act had to permit corporations that expire due to term of existence limitations in their article of incorporation to reinstate following the expiration of their term of existence.

As you can see these changes are minor. However they are needed to make the statutes work properly. I urge your favorable consideration of HB 577 and if you find no objections to this legislation I ask that you consider this for your consent calendar.

Amendments to House Bill No. 577
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 16, 1993

1. Title, line 10.
Strike: "35-1-1104,"
2. Page 7, line 18.
Strike: "service of"
3. Page 7, lines 18 and 19.
Strike: "perfected under 35-1-1034"
Insert: "mailed"
4. Page 7, line 24.
Strike: "serve"
Insert: "mail"
Strike: "on"
Insert: "to"
5. Page 7, line 25.
Strike: "pursuant to 35-1-1034"
6. Page 8, line 22 through page 11, line 2.
Strike: section 5 in its entirety
Renumber: subsequent sections
7. Page 12, line 25.
Strike: "serve"
Insert: "mail"
Strike: "on"
Insert: "to"
8. Page 13, line 1.
Strike: "under 35-2-830"
9. Page 13, line 11.
Following: "(1)"
Insert: "except as provided in subsection (1)(b),"
Following: "must"
Insert: ":"
 (a)"
10. Page 13, line 12.
Following: "'P.C.'"
Strike: ", and"
Insert: "; unless
 (b)"
11. Page 13, line 13.

Strike: "may contain"

Insert: "contains"

12. Page 15, lines 4 and 6.

Strike: "9"

Insert: "8"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Business & Ec.

COMMITTEE

BILL NO. HB 577

DATE Feb. 16, 1993 SPONSOR(S)

D. Brown

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DAVE Brown	sponsor - H.D #72	X	
Gauth Jacobson	Sec of State	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

CHAIRMAN--J.D. LYNCH

NORMAL SCHEDULE==> SITE: ROOM 410

DAYS: M,T,W,T,F

TIME: 10:00 A.M.

SECRETARY-KRISTIE WOLTER

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0513	2/20	3/10		CONCUR		3/10
DOWELL, TIM			REQUIRING INSURANCE COMMISSIONER TO ENSURE INSURANCE CONSUMER PROTECTION			
HB0538	2/22	3/16		CONCUR		3/17
FOSTER, MIKE			CLARIFY TELEPHONE PROMOTION			
HB0543	2/22	3/23		CONCUR		3/24
EWER, DAVID			AUTHORIZE FIDUCIARY INVESTMENT IN INVESTMENT MANAGEMENT COMPANY			
HB0545	2/20	3/16		CONCUR AS AMENDED		3/18
TUSS, CARLEY			GENERALLY REVISE INSURANCE LAWS			
HB0575	2/22	3/24		CONCUR		3/26
DEBRUYCKER, ROGER			REVISE FARM MUTUAL INSURANCE LAWS			
HB0577	2/22	3/11		CONCUR		3/13
BROWN, DAVE			REVISE AND CLARIFY CORPORATION LAWS			
HB0581	3/01	3/19		CONCUR AS AMENDED		3/22
RICE, SHEILA			CREATE A STATE HOUSING TASK FORCE			
HB0594	3/01	3/18		CONCUR		3/20
LARSON, DON			CLARIFY BEER AND WINE LICENSE TRANSFER OBLIGATIONS FOR CREDIT PURCHASES			
HB0596	3/01	3/19		CONCUR		3/24
WISEMAN, WILLIAM			RECIPROCITY FOR TRUST COMPANIES			
HB0619	3/01	3/19		CONCUR AS AMENDED		3/26
WHALEN, TIM			CLARIFY HEALTH CARE LIEN LAW			
HB0635	3/01	3/23		CONCUR		3/26
FAGG, RUSSELL			ALLOW SEC. OF STATE TO REMOVE IMPROPER OR FRAUDULENT LIEN FILINGS			

1 HOUSE BILL NO. 577

2 INTRODUCED BY D. BROWN

3 BY REQUEST OF THE SECRETARY OF STATE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND
6 CLARIFYING THE LAWS CONCERNING CORPORATIONS; PROVIDING FOR
7 MAILING OF CERTAIN NOTICES; AUTHORIZING DIFFERENT NAME
8 DESIGNATIONS FOR FOREIGN CORPORATIONS; PROVIDING FOR THE
9 EXTENSION OF DURATION OF A CORPORATION; AND AMENDING
10 SECTIONS 35-1-115, 35-1-827, 35-1-937, 35-1-1039, 35-1-1104,
11 35-2-608, 35-2-833, AND 35-4-206, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14 **Section 1.** Section 35-1-115, MCA, is amended to read:

15 "35-1-115. General powers. Unless its articles of
16 incorporation provide otherwise, each corporation has
17 perpetual duration and succession in its corporate name and,
18 unless otherwise prohibited by law, has the same powers as
19 an individual to do all things necessary or convenient to
20 carry out its business and affairs, including without
21 limitation, the power:

22 (1) to sue and be sued, complain, and defend in its
23 corporate name;

24 (2) to have a corporate seal, which may be altered at
25 will, and to use it or a facsimile of the seal by impressing

1 or affixing it or in any other manner reproducing it;

2 (3) to make and amend bylaws, consistent with its
3 articles of incorporation or with the laws of this state,
4 for managing the business and regulating the affairs of the
5 corporation;

6 (4) to purchase, receive, lease, or otherwise acquire
7 and to own, hold, improve, use, and otherwise deal with real
8 or personal property or any legal or equitable interest in
9 property, wherever located;

10 (5) to sell, convey, mortgage, pledge, lease, exchange,
11 and otherwise dispose of all or any part of its property;

12 (6) to purchase, receive, subscribe for, or otherwise
13 acquire any other entity; to own, hold, vote, use, sell,
14 mortgage, lend, pledge, or otherwise dispose of any other
15 entity; and to deal in and with shares or other interests
16 in, or obligations of any other entity;

17 (7) to make contracts and guarantees; to incur
18 liabilities; to borrow money; to issue its notes, bonds, and
19
20
21

22 THERE ARE NO CHANGES IN THIS BILL
23 AND WILL NOT BE REPRINTED. PLEASE
24 REFER TO YELLOW COPY FOR COMPLETE TEXT.
25

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 577

INTRODUCED BY D. BROWN

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND CLARIFYING THE LAWS CONCERNING CORPORATIONS; PROVIDING FOR MAILING OF CERTAIN NOTICES; AUTHORIZING DIFFERENT NAME DESIGNATIONS FOR FOREIGN CORPORATIONS; PROVIDING FOR THE EXTENSION OF DURATION OF A CORPORATION; AND AMENDING SECTIONS 35-1-115, 35-1-827, 35-1-937, 35-1-1039, 35-1-1104, 35-2-608, 35-2-833, AND 35-4-206, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 35-1-115, MCA, is amended to read:

"35-1-115. General powers. Unless its articles of incorporation provide otherwise, each corporation has perpetual duration and succession in its corporate name and, unless otherwise prohibited by law, has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation, the power:

(1) to sue and be sued, complain, and defend in its corporate name;

(2) to have a corporate seal, which may be altered at will, and to use it or a facsimile of the seal by impressing

or affixing it or in any other manner reproducing it;

(3) to make and amend bylaws, consistent with its articles of incorporation or with the laws of this state, for managing the business and regulating the affairs of the corporation;

(4) to purchase, receive, lease, or otherwise acquire and to own, hold, improve, use, and otherwise deal with real or personal property or any legal or equitable interest in property, wherever located;

(5) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(6) to purchase, receive, subscribe for, or otherwise acquire any other entity; to own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of any other entity; and to deal in and with shares or other interests in, or obligations of any other entity;

(7) to make contracts and guarantees; to incur liabilities; to borrow money; to issue its notes, bonds, and other obligations, which, if authorized by the articles of incorporation, may be convertible into or include the option to purchase other securities of the corporation; and to secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

(8) to lend money, invest and reinvest its funds, and receive and hold real and personal property as security for

1 repayment;

2 (9) to be a promoter, partner, member, associate, or
3 manager of any partnership, joint venture, trust, or other
4 entity;

5 (10) to conduct its business, locate offices, and
6 exercise the powers granted by this chapter in the state or
7 out of the state;

8 (11) to elect directors and appoint officers, employees,
9 and agents of the corporation; to define their duties; to
10 fix their compensation; and to lend them money and credit;

11 (12) to pay pensions and establish pension plans,
12 pension trusts, profit-sharing plans, share bonus plans,
13 share option plans, and benefit or incentive plans for any
14 or all of its current or former directors, officers,
15 employees, and agents;

16 (13) to make donations for the public welfare or for
17 charitable, religious, scientific, or educational purposes
18 and, in time of war, to make donations in aid of war
19 activities;

20 (14) to transact any lawful business that will aid
21 governmental policy; and

22 (15) to make payments or donations or to do any other
23 act that is consistent with law and that furthers the
24 business and affairs of the corporation."

25 **Section 2.** Section 35-1-827, MCA, is amended to read:

1 "35-1-827. Right to dissent. (1) A shareholder is
2 entitled to dissent from and obtain payment of the fair
3 value of his the shareholder's shares in the event of any of
4 the following corporate actions:

5 (a) consummation of a plan of merger to which the
6 corporation is a party if:

7 (i) shareholder approval is required for the merger by
8 35-1-815 or the articles of incorporation and the
9 shareholder is entitled to vote on the merger; or

10 (ii) the corporation is a subsidiary that is merged with
11 its parent corporation under 35-1-818;

12 (b) consummation of a plan of share exchange to which
13 the corporation is a party as the corporation whose shares
14 will be acquired if the shareholder is entitled to vote on
15 the plan;

16 (c) consummation of a sale or exchange of all or
17 substantially all of the property of the corporation other
18 than in the usual and regular course of business if the
19 shareholder is entitled to vote on the sale or exchange,
20 including a sale in dissolution but not including a sale
21 pursuant to court order or a sale for cash pursuant to a
22 plan by which all or substantially all of the net proceeds
23 of the sale will be distributed to the shareholders within 1
24 year after the date of sale;

25 (d) an amendment of the articles of incorporation that

1 materially and adversely affects rights in respect of a
2 dissenter's shares because it:

3 (i) alters or abolishes a preferential right of the
4 shares;

5 (ii) creates, alters, or abolishes a right in respect of
6 redemption, including a provision with respect to a sinking
7 fund for the redemption or repurchase of the shares;

8 (iii) alters or abolishes a preemptive right of the
9 holder of the shares to acquire shares or other securities;

10 (iv) excludes or limits the right of the shares to be
11 voted on any matter or to ~~accumulate~~ cumulate votes, other
12 than a limitation by dilution through issuance of shares or
13 other securities with similar voting rights; or

14 (v) reduces the number of shares owned by the
15 shareholder to a fraction of a share if the fractional share
16 ~~so~~ created is to be acquired for cash under 35-1-621; or

17 (e) any corporate action taken pursuant to a
18 shareholder vote to the extent the articles of
19 incorporation, bylaws, or a resolution of the board of
20 directors provides that voting or nonvoting shareholders are
21 entitled to dissent and to obtain payment for their shares.

22 (2) A shareholder entitled to dissent and to obtain
23 payment for his shares under 35-1-826 through 35-1-839 may
24 not challenge the corporate action creating the
25 shareholder's entitlement unless the action is unlawful or

1 fraudulent with respect to the shareholder or the
2 corporation."

3 **Section 3.** Section 35-1-937, MCA, is amended to read:

4 "35-1-937. Unknown claims against dissolved
5 corporation. (1) Subject to 35-1-939 35-1-936, the
6 dissolution of a corporation, including by the expiration of
7 its term, does not take away or impair any remedy available
8 to or against the corporation or its officers, directors, or
9 shareholders for any claim or right, whether or not the
10 claim or right existed or accrued prior to dissolution. A
11 proceeding by or against the corporation may be prosecuted
12 or defended by the corporation in its corporate name. The
13 shareholders, directors, and officers have power to take
14 corporate or other action as appropriate to protect the
15 remedy, right, or claim.

16 (2) A claim may be enforced under 35-1-936 or this
17 section:

18 (a) against the dissolved corporation, to the extent of
19 the undistributed assets; or

20 (b) if the assets have been distributed in liquidation,
21 against a shareholder of the dissolved corporation to the
22 extent of his the shareholder's pro rata share of the claim
23 or the corporate assets distributed to the shareholder in
24 liquidation, whichever is less, but a shareholder's total
25 liability for all claims under this section may not exceed

1 the total amount of assets distributed to him the
2 shareholder.

3 (3) Subsections (1) and (2) apply to foreign
4 corporations and their shareholders transacting business in
5 this state for any claims otherwise arising or accruing
6 under Montana law."

7 **Section 4.** Section 35-1-1039, MCA, is amended to read:

8 "35-1-1039. Procedure for and effect of revocation. (1)
9 If the secretary of state determines that one or more
10 grounds exist under 35-1-1038 for revocation of a
11 certificate of authority, the secretary of state shall serve
12 mail to the foreign corporation with the written notice of
13 his the determination pursuant-to-35-1-1034.

14 (2) If the foreign corporation does not correct each
15 ground for revocation or demonstrate to the reasonable
16 satisfaction of the secretary of state that each ground
17 determined by the secretary of state does not exist within
18 60 days after service--of the notice is perfected--under
19 35-1-1034 MAILED, the secretary of state may revoke the
20 foreign corporation's certificate of authority by signing a
21 certificate of revocation that states the ground or grounds
22 for revocation and the effective date of the revocation. The
23 secretary of state shall file the original of the
24 certificate and serve MAIL a copy on TO the foreign
25 corporation pursuant-to-35-1-1034.

1 (3) The authority of a foreign corporation to transact
2 business in this state ceases on the date shown on the
3 certificate revoking its certificate of authority.

4 (4) The secretary of state's revocation of a foreign
5 corporation's certificate of authority appoints the
6 secretary of state as the foreign corporation's agent for
7 service of process in any proceeding based on a cause of
8 action that arose during the time the foreign corporation
9 was authorized to transact business in this state. Service
10 of process on the secretary of state under this subsection
11 is service on the foreign corporation. Upon receipt of
12 process, the secretary of state shall mail a copy of the
13 process to the secretary of the foreign corporation at its
14 principal office shown in its most recent annual report or
15 in any subsequent communication received from the
16 corporation stating the current mailing address of its
17 principal office, or, if no a report or communication is not
18 on file, in its application for a certificate of authority.

19 (5) Revocation of a foreign corporation's certificate
20 of authority does not terminate the authority of the
21 registered agent of the corporation."

22 ~~Section 5. Section 35-1-1104, MCA, is amended to read:--~~

23 ~~"35-1-1104. Annual report for secretary of state. (1)~~
24 ~~Each domestic corporation and each foreign corporation~~
25 ~~authorized to transact business in this state shall deliver~~

1 to-the-secretary-of-state,-for-filing,-an-annual-report-that
 2 sets-forth:
 3 {a}--the--name--of--the--corporation--and--the--state-or
 4 country-under-whose-law-it-is-incorporated;
 5 {b}--the--mailing--address--and,-if-different,-street
 6 address-of--its--registered-office--and--the--name--of--its
 7 registered-agent-at-that-office-in-this-state;
 8 {c}--the-address-of-its-principal-office;
 9 {d}--the--names--and-business-addresses-of-its-directors
 10 and-principal-officers;
 11 {e}--a-brief-description-of-the-nature-of-its-business;
 12 {f}--the-total-number-of-authorized-shares,-itemized--by
 13 class-and-series,-if-any,-within-each-class,-and
 14 {g}--the-total-number-of-issued-and-outstanding-shares,
 15 itemized-by-class-and-series,-if-any,-within-each-class;
 16 {2}--Each--foreign-corporation--shall--also--include--a
 17 statement,-expressed-in-dollars,-of-the--value--of--all--the
 18 property-owned-by-the-corporation,-wherever-located,-and-the
 19 value--of--the--property--of--the-corporation-located-within
 20 Montana-and-a-statement,-expressed-in-dollars,-of-the--gross
 21 amount--of--business--transacted--by-the-corporation-for-the
 22 year-ending-December-31-preceding-the-date-provided-in--this
 23 section-for-the-filing-of-the-report-and-the-gross-amount-of
 24 business--transacted-by-the-corporation-at-or-from-places-of
 25 business-in-Montana,-if-on-December-31--preceding--the--time

1 provided--in--this--section-for-the-filing-of-the-report-the
 2 corporation-had-not-been-authorized-to-transact-business--in
 3 Montana--for--1-year,-the-statement-with-respect-to-business
 4 transacted-must-be-furnished-for-the-period-between-the-date
 5 of-its-authorization-to-transact--business--in--Montana--and
 6 December--31,-if--all--the--property--of-the-corporation-is
 7 located-in-Montana-and-all-of-its-business-is-transacted--at
 8 or--from--places--of--business--in--Montana,-the-information
 9 required-by-this-subsection-need-not-be-reported;
 10 {3}--Information-in-the-annual-report-must-be-current-as
 11 of-the-date-the-annual-report-is-executed-on-behalf--of--the
 12 corporation;
 13 {4}--The--first--annual--report-must-be-delivered-to-the
 14 secretary-of-state-between-January-1-and-April-15--of--the
 15 year--following--the--calendar--year--in--which--a--domestic
 16 corporation--was--incorporated--or-a-foreign-corporation-was
 17 authorized-to-transact-business,-Subsequent--annual--reports
 18 must--be-delivered-to-the-secretary-of-state-between-January
 19 1-and-April-15;
 20 {5}--If--an--annual--report--does--not--contain--the
 21 information-required-by-this-section,-the-secretary-of-state
 22 shall--promptly--notify--the--reporting--domestic-or-foreign
 23 corporation-in-writing-and--return--the--report--to--it--for
 24 correction;-if-the-report-is-corrected--to--contain-the
 25 information-required-by-this-section-and--delivered--to--the

~~secretary--of--state-within-30-days-after-the-effective-date
of-notice; it-is-considered-to-be-timely-filed;"~~

Section 5. Section 35-2-608, MCA, is amended to read:

"35-2-608. Approval of plan of merger. (1) Subject to the limitations set forth in 35-2-609, profit one or more nonprofit corporations may merge into a business or nonprofit corporation if the plan of merger is approved as provided in 35-2-610.

(2) The plan of merger must set forth:

(a) the name of each corporation planning to merge and the name of the surviving corporation into which each plans to merge;

(b) the terms and conditions of the planned merger;

(c) the manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving corporation; and

(d) if the merger involves a mutual benefit corporation, the manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) any amendments to the articles of incorporation or bylaws of the surviving corporation to be effected by the planned merger; and

(b) other provisions relating to the planned merger."

Section 6. Section 35-2-833, MCA, is amended to read:

"35-2-833. Procedure for and effect of revocation. (1)

The secretary of state, upon determining that one or more grounds exist under 35-2-832 for revocation of a certificate of authority, shall serve mail to the foreign corporation with written notice of that determination under 35-2-830.

(2) The attorney general, upon determining that one or more grounds exist under 35-2-832(2) for revocation of a certificate of authority, shall request the secretary of state to serve, and the secretary of state shall serve, the foreign corporation with written notice of that determination under 35-2-830.

(3) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state or attorney general that each ground for revocation determined by the secretary of state or attorney general does not exist within 60 days after mailing the notice or after service of the notice is perfected under 35-2-830, the secretary of state may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that states the ground or grounds for revocation and the effective date of the revocation. The secretary of state shall file the original of the certificate and serve MAIL a copy on TO the foreign

corporation under-35-2-830.

(4) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(5) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation."

Section 7. Section 35-4-206, MCA, is amended to read:

"35-4-206. Corporate name. The name of a domestic or foreign professional corporation:

(1) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(B), must contain the words "professional corporation" or the abbreviation "P.C."and; UNLESS

(B) the name of a foreign corporation may contain CONTAINS the words "professional services" or "P.S.";

(2) may not contain any word or phrase that indicates or implies that the corporation is organized for any purpose other than the purposes contained in its articles of incorporation;

(3) may not be the same as or deceptively similar to any assumed business name, limited partnership name, trademark, or service mark registered or reserved with the secretary of state or to the name of any domestic corporation existing under the laws of this state, any foreign corporation authorized to transact business in this

state, a name the exclusive right to which is reserved in the manner provided in the Montana Business Corporation Act, or the name of a corporation that has in effect a registration of its corporate name as provided in the Montana Business Corporation Act. This subsection does not apply if:

(a) the similarity results from the use in the corporate name of personal names of shareholders or former shareholders or of natural persons who were associated with a predecessor entity; or

(b) the corporation files with the secretary of state either the written consent of such other corporation or holder of a reserved or registered name to use the same or a deceptively similar name and one or more words are added to make such name distinguishable from such other name or a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the corporation to the use of the name in this state; and

(4) must conform to rules promulgated by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of the corporation."

NEW SECTION. **Section 8.** Extension of duration of corporation. If a corporation is dissolved by the expiration of its period of duration as stated in its articles of

32

1 incorporation, the corporation may amend its articles of
2 incorporation within 5 years from the stated date of
3 expiration to extend its existence.

4 NEW SECTION. **Section 9.** Codification instruction.
5 [Section 9 8] is intended to be codified as an integral part
6 of Title 35, chapter 1, and the provisions of Title 35,
7 chapter 1, apply to [section 9 8].

-End-

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on March 11, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. John Brenden (R)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Bill Wilson (D)

Members Excused: Senator Hager

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 273, HB 577
Executive Action: None.

HEARING ON HB 577

Opening Statement by Sponsor:

Representative Dave Brown, House District 72, stated HB 577 would revise and clarify corporation laws. He stated HB 577 had been revised and amended in the House and he explained those changes.

Proponents' Testimony:

Garth Jacobson, Secretary of State's Office, stated his support of HB 577.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Referring to section 5, Senator Christiaens asked Mr. Jacobson why the word "profit" had been changed to "non-profit". Mr. Jacobson stated until a corporation loses its "non-profit" status, they can not merge with other "profit" corporations.

Closing by Sponsor:

Representative Brown closed on HB 577.

HEARING ON HB 273

Opening Statement by Sponsor:

Representative Ed Dolezal, House District 34, stated HB 273 would address the insurance companies and their auto glass repair policies. He stated insurance companies currently contract with a third party for any auto glass repairs. He stated the contracts save the insurance companies money because they do not have to hire staff to process the claims. Representative Dolezal stated the companies with whom they contract do the repair work for a "set fee" which sometimes means the companies operate at a loss. He stated the insurance companies are contracting with the "Network Glass Repair" shops and cutting out the competition. He stated HB 273 would provides the consumer with choices and establish a competitive situation which would allow the consumer to choose the lowest prevailing market price. He stated there was a proposed amendment to page 1, line 10, which would insert the word "glass" and another proposed amendment of page 2 line 9 which would remove the phrase "or recommend".

Proponents' Testimony:

Representative Gary Mason, House District 63 stated currently no choices were available to the consumer. He stated HB 273 would provide consumers with the opportunity to chose who they want to do their auto repair work.

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 3/11

NAME	PRESENT	ABSENT	EXCUSED
Senator Lynch	✓		
Senator Christiaens	✓		
Senator Brenden	✓		
Senator Gage	✓		
Senator Hager			
Senator Harding	✓		
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Bruski-Maus	✓		
Senator Wilson	✓		
	✓		

DATE March 11, 1993

SENATE COMMITTEE ON Business & Industry

BILLS BEING HEARD TODAY: House HB-273, HB577

Name	Representing	Bill No.	Check One Support Oppose
Charles R. Brooks	MT Ret. L. Assoc	HB 273	✓
Harold Hagan	"	HB 273	
GENE PHILLIPS	N. A. I. I.		X
DAVE BROWN	Sponsor. HB #72	HB 577	✓
Roger McGlenn	ITAM	HB-273 AMERICAN	
Elizabeth Jackson	Sec of State	HB 577	✓
Jane Mellon	allstate	HB 273	
Mary Jo Peiges	Globe/USA-GIRTS	HB 273	
Scott Talley	Scott's Glass	HB 273	✓
George Hess	Polygon Paint & Glass		✓
Rep. Jay Mann	SETE	HB-273	✓
JOHN WILKINSON	NORTHWEST GLASS	273	✓
Truman Strout	Magic City Glass	HB 273	✓
Pat Strout	Magic City Glass	HB 273	✓
Terry Rothacher	K&L Spill	273	✓
LARRY ANTHURA	QUALITY GLASS WEST	273	✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By J.D. Lynch, Chair, on March 12, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. J.D. Lynch, Chair (D)
Sen. Chris Christiaens, Vice Chair (D)
Sen. John Brenden (R)
Sen. Betty Bruski-Maus (D)
Sen. Delwyn Gage (R)
Sen. Tom Hager (R)
Sen. Ethel Harding (R)
Sen. Ed Kennedy (D)
Sen. Terry Klampe (D)
Sen. Francis Koehnke (D)
Sen. Kenneth Mesaros (R)
Sen. Doc Rea (D)
Sen. Bill Wilson (D)

Members Excused: Senator Hager

Members Absent: None.

Staff Present: Bart Campbell, Legislative Council
Kristie Wolter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 314
Executive Action: HB 637, HB 577

HEARING ON SB 314

Opening Statement by Sponsor:

Senator Chris Christiaens, Senate District 18, stated SB 314 would allow for each subdivision of issuer to pay portfolio registration fees. He stated SB 314 would help the Securities Commissioner regulate the securities industry by making all sellers of securities register and pay a fee with the state. He stated the registration would allow the Commissioner to review portfolios and possibly eliminate fraudulent sales of securities.

Senator Christiaens move HB 637 BE CONCURRED IN AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 577

Motion/Vote:

Senator Christiaens moved HB 577 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 222

Motion:

Senator Christiaens moved HB 222 BE AMENDED TO ALTERNATIVE 1 (Exhibit #2).

Discussion:

Senator Lynch opened the floor to discussion.

Beth Baker stated the Department felt alternative 2 was a much more acceptable alternative to HB 222. She stated alternative 2 would not regulate the selling of fire extinguishers, just the servicing of them.

Motion:

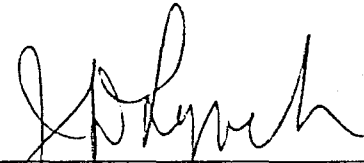
Senator Klampe made a substitute motion that HB 222 be AMENDED TO ALTERNATIVE 2 (Exhibit #2).

Vote:

Motion passed on Roll Call Vote.

ADJOURNMENT

Adjournment: 10:30 a.m.



SENATOR J.D. LYNCH, Chair



KRISTIE WOLTER, Secretary

JDL/klw

ROLL CALL

SENATE COMMITTEE Business & Industry DATE 3/12/83

NAME PRESENT ABSENT EXCUSED

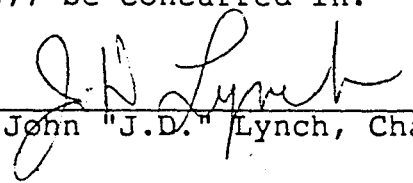
Senator Lynch	✓		
Senator Christiaens	✓		
Senator Brenden	✓		
Senator Gage	✓		
Senator Hager			✓
Senator Harding			✓
Senator Kennedy	✓		
Senator Klampe	✓		
Senator Koehnke	✓		
Senator Mesaros	✓		
Senator Rea	✓		
Senator Bruski-Maus	✓		
Senator Wilson	✓		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 12, 1993

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 577 (first reading copy -- white), respectfully report that House Bill No. 577 be concurred in.

Signed: 
Senator John "J.D." Lynch, Chair

12/

Sen. J.D. Lynch

41

1 HOUSE BILL NO. 577

2 INTRODUCED BY D. BROWN

3 BY REQUEST OF THE SECRETARY OF STATE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND
6 CLARIFYING THE LAWS CONCERNING CORPORATIONS; PROVIDING FOR
7 MAILING OF CERTAIN NOTICES; AUTHORIZING DIFFERENT NAME
8 DESIGNATIONS FOR FOREIGN CORPORATIONS; PROVIDING FOR THE
9 EXTENSION OF DURATION OF A CORPORATION; AND AMENDING
10 SECTIONS 35-1-115, 35-1-827, 35-1-937, 35-1-1039, 35-1-1104,
11 35-2-608, 35-2-833, AND 35-4-206, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14 **Section 1.** Section 35-1-115, MCA, is amended to read:

15 "35-1-115. General powers. Unless its articles of
16 incorporation provide otherwise, each corporation has
17 perpetual duration and succession in its corporate name and,
18 unless otherwise prohibited by law, has the same powers as
19 an individual to do all things necessary or convenient to
20 carry out its business and affairs, including without
21 limitation, the power:

22 (1) to sue and be sued, complain, and defend in its
23 corporate name;

24 (2) to have a corporate seal, which may be altered at
25 will, and to use it or a facsimile of the seal by impressing

1 or affixing it or in any other manner reproducing it;

2 (3) to make and amend bylaws, consistent with its
3 articles of incorporation or with the laws of this state,
4 for managing the business and regulating the affairs of the
5 corporation;

6 (4) to purchase, receive, lease, or otherwise acquire
7 and to own, hold, improve, use, and otherwise deal with real
8 or personal property or any legal or equitable interest in
9 property, wherever located;

10 (5) to sell, convey, mortgage, pledge, lease, exchange,
11 and otherwise dispose of all or any part of its property;

12 (6) to purchase, receive, subscribe for, or otherwise
13 acquire any other entity; to own, hold, vote, use, sell,
14 mortgage, lend, pledge, or otherwise dispose of any other
15 entity; and to deal in and with shares or other interests
16 in, or obligations of any other entity;

17 (7) to make contracts and guarantees; to incur
18 liabilities; to borrow money; to issue its notes, bonds, and
19 other obligations, which, if authorized by the articles of
20 incorporation, may be convertible into or include the option
21 to purchase other securities of the corporation; and to
22 secure any of its obligations by mortgage or pledge of any
23 of its property, franchises, or income;

24 (8) to lend money, invest and reinvest its funds, and
25 receive and hold real and personal property as security for

1 repayment;

2 (9) to be a promoter, partner, member, associate, or
3 manager of any partnership, joint venture, trust, or other
4 entity;

5 (10) to conduct its business, locate offices, and
6 exercise the powers granted by this chapter in the state or
7 out of the state;

8 (11) to elect directors and appoint officers, employees,
9 and agents of the corporation; to define their duties; to
10 fix their compensation; and to lend them money and credit;

11 (12) to pay pensions and establish pension plans,
12 pension trusts, profit-sharing plans, share bonus plans,
13 share option plans, and benefit or incentive plans for any
14 or all of its current or former directors, officers,
15 employees, and agents;

16 (13) to make donations for the public welfare or for
17 charitable, religious, scientific, or educational purposes
18 and, in time of war, to make donations in aid of war
19 activities;

20 (14) to transact any lawful business that will aid
21 governmental policy; and

22 (15) to make payments or donations or to do any other
23 act that is consistent with law and that furthers the
24 business and affairs of the corporation."

25 **Section 2.** Section 35-1-827, MCA, is amended to read:

1 "35-1-827. Right to dissent. (1) A shareholder is
2 entitled to dissent from and obtain payment of the fair
3 value of his the shareholder's shares in the event of any of
4 the following corporate actions:

5 (a) consummation of a plan of merger to which the
6 corporation is a party if:

7 (i) shareholder approval is required for the merger by
8 35-1-815 or the articles of incorporation and the
9 shareholder is entitled to vote on the merger; or

10 (ii) the corporation is a subsidiary that is merged with
11 its parent corporation under 35-1-818;

12 (b) consummation of a plan of share exchange to which
13 the corporation is a party as the corporation whose shares
14 will be acquired if the shareholder is entitled to vote on
15 the plan;

16 (c) consummation of a sale or exchange of all or
17 substantially all of the property of the corporation other
18 than in the usual and regular course of business if the
19 shareholder is entitled to vote on the sale or exchange,
20 including a sale in dissolution but not including a sale
21 pursuant to court order or a sale for cash pursuant to a
22 plan by which all or substantially all of the net proceeds
23 of the sale will be distributed to the shareholders within 1
24 year after the date of sale;

25 (d) an amendment of the articles of incorporation that

1 materially and adversely affects rights in respect of a
2 dissenter's shares because it:

3 (i) alters or abolishes a preferential right of the
4 shares;

5 (ii) creates, alters, or abolishes a right in respect of
6 redemption, including a provision with respect to a sinking
7 fund for the redemption or repurchase of the shares;

8 (iii) alters or abolishes a preemptive right of the
9 holder of the shares to acquire shares or other securities;

10 (iv) excludes or limits the right of the shares to be
11 voted on any matter or to ~~accumulate~~ cumulate votes, other
12 than a limitation by dilution through issuance of shares or
13 other securities with similar voting rights; or

14 (v) reduces the number of shares owned by the
15 shareholder to a fraction of a share if the fractional share
16 ~~so~~ created is to be acquired for cash under 35-1-621; or

17 (e) any corporate action taken pursuant to a
18 shareholder vote to the extent the articles of
19 incorporation, bylaws, or a resolution of the board of
20 directors provides that voting or nonvoting shareholders are
21 entitled to dissent and to obtain payment for their shares.

22 (2) A shareholder entitled to dissent and to obtain
23 payment for his shares under 35-1-826 through 35-1-839 may
24 not challenge the corporate action creating the
25 shareholder's entitlement unless the action is unlawful or

1 fraudulent with respect to the shareholder or the
2 corporation."

3 **Section 3.** Section 35-1-937, MCA, is amended to read:

4 "35-1-937. ~~Unknown~~ claims ~~against~~ dissolved
5 corporation. (1) Subject to 35-1-939 35-1-936, the
6 dissolution of a corporation, including by the expiration of
7 its term, does not take away or impair any remedy available
8 to or against the corporation or its officers, directors, or
9 shareholders for any claim or right, whether or not the
10 claim or right existed or accrued prior to dissolution. A
11 proceeding by or against the corporation may be prosecuted
12 or defended by the corporation in its corporate name. The
13 shareholders, directors, and officers have power to take
14 corporate or other action as appropriate to protect the
15 remedy, right, or claim.

16 (2) A claim may be enforced under 35-1-936 or this
17 section:

18 (a) against the dissolved corporation, to the extent of
19 the undistributed assets; or

20 (b) if the assets have been distributed in liquidation,
21 against a shareholder of the dissolved corporation to the
22 extent of his the shareholder's pro rata share of the claim
23 or the corporate assets distributed to the shareholder in
24 liquidation, whichever is less, but a shareholder's total
25 liability for all claims under this section may not exceed

1 the total amount of assets distributed to him the
2 shareholder.

3 (3) Subsections (1) and (2) apply to foreign
4 corporations and their shareholders transacting business in
5 this state for any claims otherwise arising or accruing
6 under Montana law."

7 **Section 4.** Section 35-1-1039, MCA, is amended to read:

8 "35-1-1039. Procedure for and effect of revocation. (1)

9 If the secretary of state determines that one or more
10 grounds exist under 35-1-1038 for revocation of a
11 certificate of authority, the secretary of state shall serve
12 mail to the foreign corporation with the written notice of
13 his the determination pursuant-to-35-1-1034.

14 (2) If the foreign corporation does not correct each
15 ground for revocation or demonstrate to the reasonable
16 satisfaction of the secretary of state that each ground
17 determined by the secretary of state does not exist within
18 60 days after service--of the notice is perfected--under
19 35-1-1034 MAILED, the secretary of state may revoke the
20 foreign corporation's certificate of authority by signing a
21 certificate of revocation that states the ground or grounds
22 for revocation and the effective date of the revocation. The
23 secretary of state shall file the original of the
24 certificate and serve MAIL a copy on TO the foreign
25 corporation pursuant-to-35-1-1034.

1 (3) The authority of a foreign corporation to transact
2 business in this state ceases on the date shown on the
3 certificate revoking its certificate of authority.

4 (4) The secretary of state's revocation of a foreign
5 corporation's certificate of authority appoints the
6 secretary of state as the foreign corporation's agent for
7 service of process in any proceeding based on a cause of
8 action that arose during the time the foreign corporation
9 was authorized to transact business in this state. Service
10 of process on the secretary of state under this subsection
11 is service on the foreign corporation. Upon receipt of
12 process, the secretary of state shall mail a copy of the
13 process to the secretary of the foreign corporation at its
14 principal office shown in its most recent annual report or
15 in any subsequent communication received from the
16 corporation stating the current mailing address of its
17 principal officer, or, if no a report or communication is not
18 on file, in its application for a certificate of authority.

19 (5) Revocation of a foreign corporation's certificate
20 of authority does not terminate the authority of the
21 registered agent of the corporation."

22 **Section 5.** ~~Section 35-1-1104, MCA, is amended to read:--~~

23 ~~"35-1-1104.--Annual--report--for--secretary--of--state--{1}~~
24 ~~Back--domestic--corporation--and--each--foreign--corporation~~
25 ~~authorized-to-transact-business-in-this-state-shall--deliver~~

1 to-the-secretary-of-state,-for-filing,-an-annual-report-that
2 sets-forth:

3 {a)--the--name--of--the--corporation--and--the--state-or
4 country-under-whose-law-it-is-incorporated;

5 {b)--the--mailing--address--and,-if--different,-street
6 address-of--its--registered--office--and--the--name--of--its
7 registered-agent-at-that-office-in-this-state;

8 {c)--the-address-of-its-principal-office;

9 {d)--the--names--and-business-addresses-of-its-directors
10 and-principal-officers;

11 {e)--a-brief-description-of-the-nature-of-its-business;

12 {f)--the-total-number-of-authorized-shares,-itemized--by
13 class-and-series,-if-any,-within-each-class;-and

14 {g)--the-total-number-of-issued-and-outstanding-shares,
15 itemized-by-class-and-series,-if-any,-within-each-class;

16 {2)--Each--foreign--corporation--shall--also--include--a
17 statement,-expressed-in-dollars,-of-the--value--of--all--the
18 property-owned-by-the-corporation,-wherever-located,-and-the
19 value--of--the--property--of--the-corporation-located-within
20 Montana-and-a-statement,-expressed-in-dollars,-of-the--gross
21 amount--of--business--transacted--by-the-corporation-for-the
22 year-ending-December-31-preceding-the-date-provided-in--this
23 section-for-the-filing-of-the-report-and-the-gross-amount-of
24 business--transacted-by-the-corporation-at-or-from-places-of
25 business-in-Montana;-if-on-December-31--preceding--the--time

1 provided--in--this--section-for-the-filing-of-the-report-the
2 corporation-had-not-been-authorized-to-transact-business--in
3 Montana--for--i-year,-the-statement-with-respect-to-business
4 transacted-must-be-furnished-for-the-period-between-the-date
5 of-its-authorization-to-transact--business--in--Montana--and
6 December--31;-if--all--the--property--of-the-corporation-is
7 located-in-Montana-and-all-of-its-business-is-transacted--at
8 or--from--places--of--business--in--Montana,-the-information
9 required-by-this-subsection-need-not-be-reported;

10 {3)--information-in-the-annual-report-must-be-current-as
11 of-the-date-the-annual-report-is-executed-on-behalf--of--the
12 corporation;

13 {4)--The--first--annual--report-must-be-delivered-to-the
14 secretary-of-state-between-January-1-and-April-15--of--the
15 year--following--the--calendar--year--in--which--a--domestic
16 corporation--was--incorporated--or-a-foreign-corporation-was
17 authorized-to-transact-business--Subsequent--annual--reports
18 must--be-delivered-to-the-secretary-of-state-between-January
19 1-and-April-15;

20 {5)--If--an--annual--report---does---not---contain---the
21 information-required-by-this-section,-the-secretary-of-state
22 shall--promptly--notify--the--reporting-domestic-or-foreign
23 corporation-in-writing-and--return--the--report--to--it--for
24 correction;-if--the--report--is--corrected--to--contain-the
25 information-required-by-this-section-and--delivered--to--the

46

1 ~~secretary--of--state-within-30-days-after-the-effective-date~~
2 ~~of-notice, it-is-considered-to-be-timely-filed."~~

3 **Section 5.** Section 35-2-608, MCA, is amended to read:

4 "35-2-608. **Approval of plan of merger.** (1) Subject to
5 the limitations set forth in 35-2-609, profit one or more
6 nonprofit corporations may merge into a business or
7 nonprofit corporation if the plan of merger is approved as
8 provided in 35-2-610.

9 (2) The plan of merger must set forth:

10 (a) the name of each corporation planning to merge and
11 the name of the surviving corporation into which each plans
12 to merge;

13 (b) the terms and conditions of the planned merger;

14 (c) the manner and basis, if any, of converting the
15 memberships of each public benefit or religious corporation
16 into memberships of the surviving corporation; and

17 (d) if the merger involves a mutual benefit
18 corporation, the manner and basis, if any, of converting
19 memberships of each merging corporation into memberships,
20 obligations, or securities of the surviving or any other
21 corporation or into cash or other property in whole or part.

22 (3) The plan of merger may set forth:

23 (a) any amendments to the articles of incorporation or
24 bylaws of the surviving corporation to be effected by the
25 planned merger; and

1 (b) other provisions relating to the planned merger."

2 **Section 6.** Section 35-2-833, MCA, is amended to read:

3 "35-2-833. **Procedure for and effect of revocation.** (1)

4 The secretary of state, upon determining that one or more
5 grounds exist under 35-2-832 for revocation of a certificate
6 of authority, shall serve mail to the foreign corporation
7 ~~with~~ written notice of that determination under 35-2-830.

8 (2) The attorney general, upon determining that one or
9 more grounds exist under 35-2-832(2) for revocation of a
10 certificate of authority, shall request the secretary of
11 state to serve, and the secretary of state shall serve, the
12 foreign corporation with written notice of that
13 determination under 35-2-830.

14 (3) If the foreign corporation does not correct each
15 ground for revocation or demonstrate to the reasonable
16 satisfaction of the secretary of state or attorney general
17 that each ground for revocation determined by the secretary
18 of state or attorney general does not exist within 60 days
19 after mailing the notice or after service of the notice is
20 perfected under 35-2-830, the secretary of state may revoke
21 the foreign corporation's certificate of authority by
22 signing a certificate of revocation that states the ground
23 or grounds for revocation and the effective date of the
24 revocation. The secretary of state shall file the original
25 of the certificate and serve MAIL a copy on TO the foreign

1 corporation under-35-2-030.

2 (4) The authority of a foreign corporation to transact
3 business in this state ceases on the date shown on the
4 certificate revoking its certificate of authority.

5 (5) Revocation of a foreign corporation's certificate
6 of authority does not terminate the authority of the
7 registered agent of the corporation."

8 **Section 7.** Section 35-4-206, MCA, is amended to read:

9 "35-4-206. Corporate name. The name of a domestic or
10 foreign professional corporation:

11 (1) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(B), must
12 contain the words "professional corporation" or the
13 abbreviation "P.C."and; UNLESS

14 (B) the name of a foreign corporation may contain
15 CONTAINS the words "professional services" or "P.S.";

16 (2) may not contain any word or phrase that indicates
17 or implies that the corporation is organized for any purpose
18 other than the purposes contained in its articles of
19 incorporation;

20 (3) may not be the same as or deceptively similar to
21 any assumed business name, limited partnership name,
22 trademark, or service mark registered or reserved with the
23 secretary of state or to the name of any domestic
24 corporation existing under the laws of this state, any
25 foreign corporation authorized to transact business in this

1 state, a name the exclusive right to which is reserved in
2 the manner provided in the Montana Business Corporation Act,
3 or the name of a corporation that has in effect a
4 registration of its corporate name as provided in the
5 Montana Business Corporation Act. This subsection does not
6 apply if:

7 (a) the similarity results from the use in the
8 corporate name of personal names of shareholders or former
9 shareholders or of natural persons who were associated with
10 a predecessor entity; or

11 (b) the corporation files with the secretary of state
12 either the written consent of such other corporation or
13 holder of a reserved or registered name to use the same or a
14 deceptively similar name and one or more words are added to
15 make such name distinguishable from such other name or a
16 certified copy of a final decree of a court of competent
17 jurisdiction establishing the prior right of the corporation
18 to the use of the name in this state; and

19 (4) must conform to rules promulgated by a licensing
20 authority having jurisdiction of a professional service
21 described in the articles of incorporation of the
22 corporation."

23 **NEW SECTION. Section 8.** Extension of duration of
24 corporation. If a corporation is dissolved by the expiration
25 of its period of duration as stated in its articles of

1 incorporation, the corporation may amend its articles of
2 incorporation within 5 years from the stated date of
3 expiration to extend its existence.

4 NEW SECTION. **Section 9.** Codification instruction.

5 [Section 9 8] is intended to be codified as an integral part
6 of Title 35, chapter 1, and the provisions of Title 35,
7 chapter 1, apply to [section 9 8].

-End-